



Ninety – Sixth Legislature – First Session – 1999
Introducer's Statement of Intent
LB 552

Chairperson: Senator David M. Landis
Committee: Banking, Commerce, and Insurance
Date of Hearing: February 16, 1999

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

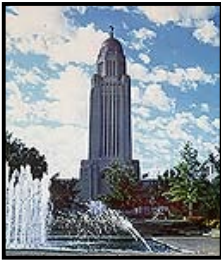
LB 552 amends sections of Chapter 52 regarding the filing system for farm products security interests. Under these amendments, electronic filing of effective finance statements and continuation statements is specifically authorized. In addition, the requirements of an effective financing statement are modified to remove the necessity of containing the signature of the debtor, if the statement is filed electronically. Original effective financing statements would still be required to contain the debtor's signature if a paper document is filed. These changes were authorized by Section 662 of the Federal Agriculture Improvement and Reform Act of 1996 and subsequent amendment of the Grain Inspection, Packers and Stockyards Administration regulations, which provide, in part, as follows:

“§205.202 (b) An EFS may be filed electronically provided a State allows electronic filing of financing statements without the signature of the debtor under applicable state law under provisions of the Uniform Commercial Code or may be a paper document. An electronically filed EFS need not be a paper document and need not be signed. If an original or reproduced paper document of an EFS is filed with the state, it must be signed by both the secured party and the debtor, and be filed by the secured party.”

LB 552 also removes the requirement for an effective financing statement continuation statement to contain the debtor's signature. This change is authorized by the recent amendment of the Grain Inspection, Packers and Stockyards Administration regulations which provide, in part, as follows:

“§205.209 (d)....A continuation statement may be filed electronically or as a paper document, and need not contain the signature of the debtor.”

Any effective financing statement or continuation statement that is filed electronically must contain an electronic signature of the secured party. The electronic signature requirement may be satisfied by a signature recognized under Section 86-1701 or by use of an access code or any other identifying word or number assigned by the Secretary of State that is unique to the filer.



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LB 552 would also authorize the electronic filing of financing statements, amendments, continuation statements, termination statements, statements of assignment and statements of release under Article 9 of the Uniform Commercial Code. All such documents must be signed by the secured party, and if filed electronically, must be signed electronically. The electronic signature requirement may be satisfied by a signature recognized under Section 86-1701 or by use of an access code or any other identifying word or number assigned by the Secretary of State that is unique to the filer.

The requirement to obtain the debtor's signature would also be removed for financing statements and amendments. This change is designed to accommodate electronic filing of Uniform Commercial Code documents. The filing of a financing statement or amendment that adds collateral would be prohibited unless the debtor signs the financing statement or amendment or authorizes the filing in a signed writing. A debtor, upon signing a written security agreement is deemed to have authorized the secured party to file a financing statement and amendments covering collateral described in the security agreement and any proceeds of such collateral. Any person filing a financing statement or amendment in violation of these provisions could be liable for any loss sustained by the debtor as a result of the "unauthorized" filing.

LB 552 also amends Uniform Section 9-412 which was adopted as a part of the "Central Filing System" adopted under LB 1321, enacted by the 1998 Legislature. These amendments clarify that a continuation statement filed pursuant to UCC Section 9-412(1) shall not be ineffective solely because it: (1) failed to identify the original statement by county, file number, or the date and time of filing; (2) indicated the types or described the items of collateral indicated in the financing statement instead of listing the collateral of the original filing; or (3) failed to include a statement that the original financing statement is still effective.

Principal Introducer:

Senator David M. Landis